

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

|                    |   |                            |
|--------------------|---|----------------------------|
| DONALD WAYNE HULL  | § |                            |
| VS.                | § | CIVIL ACTION NO. 1:05cv215 |
| DIRECTOR, TDCJ-CID | § |                            |

MEMORANDUM ORDER PARTIALLY ADOPTING THE MAGISTRATE  
JUDGE’S REPORT AND RECOMMENDATION

Petitioner Donald Wayne Hull, a prisoner confined in the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has filed a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends denying the petition.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties. However, the petitioner has filed a motion to dismiss the action. After due consideration, the court is of the opinion the motion should be granted and the case should be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2).

ORDER

Accordingly, the petitioner's motion to voluntarily dismiss the case (document no. 22) is **GRANTED**. The report of the magistrate judge is partially **ADOPTED** to the extent it recommends dismissing the action. A final judgment will be entered dismissing the action without prejudice in accordance with this Memorandum Order.

So **ORDERED** and **SIGNED** this **7** day of **February, 2006**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge